

\$ AF



Effective on 12/08/2004. Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/533,762-Conf. #009869
TOTAL AMOUNT OF PAYMENT (\$) 1,520.00		Filing Date	March 23, 2000
		First Named Inventor	Jae LEE
		Examiner Name	P. Ke
		Art Unit	2174
		Attorney Docket No.	0630-1061P

METHOD OF PAYMENT (check all that apply)

☒ Check
 ☐ Credit Card
 ☐ Money Order
 ☐ None
 ☐ Other (please identify): _____

☐ Deposit Account
 Deposit Account Number: 02-2448
 Deposit Account Name: Birch, Stewart, Kolasch & Birch, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below
 ☐ Charge fee(s) indicated below, except for the filing fee.

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17
 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims Extra Claims Fee (\$) Fee Paid (\$) Multiple Dependent Claims
 _____ - 20 = _____ x _____ = _____ Fee (\$) Fee Paid (\$)

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)
 _____ - 3 = _____ x _____ = _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____ / 50 _____ (round up to a whole number) x _____	_____	_____

4. OTHER FEE(S)

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other (e.g., late filing surcharge): 1253 Extension for response within third month	1,020.00
1402 Filing a brief in support of an appeal	500.00

SUBMITTED BY			
Signature	<u>James T. Eller, Jr.</u>	Registration No. (Attorney/Agent)	39,538
Name (Print/Type)	James T. Eller, Jr.	Telephone	(703) 205-8000
		Date	June 30, 2005



MS APPEAL BRIEF - PATENTS
Docket No.: 0630-1061P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jae LEE et al.

Application No.: 09/533,762

Confirmation No.: 009869

Filed: March 23, 2000

Art Unit: 2174

For: METHOD FOR DISPLAYING MENU SCREEN
OF VIDEO APPARATUS

Examiner: P. Ke

APPEAL BRIEF TRANSMITTAL FORM

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief on behalf of the Appellants in connection with the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

~~07/01/2005 00ENB001 00000040 09533762~~

~~01 FC:1253~~
~~02 FC:1402~~

~~1020.00 OF~~
~~500.00 OF~~

A Notice of Appeal was filed on January 31, 2005.

☐ Applicant claims small entity status in accordance with 37 C.F.R. § 1.27.

The fee has been calculated as shown below:

☒ Extension of time fee pursuant to 37 C.F.R. §§ 1.17 and 1.136(a) - \$1,020.00.

☒ Fee for filing an Appeal Brief - \$500.00 (large entity).

Application No.: 09/533,762

Docket No.: 0630-1061P

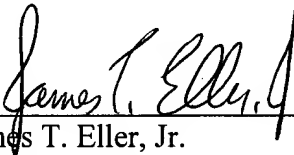
☒ Check(s) in the amount of \$1,520.00 is(are) attached.

☐ Please charge Deposit Account No. 02-2448 in the amount of \$_____. A triplicate copy of this sheet is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: June 30, 2005

Respectfully submitted,

By 

James T. Eller, Jr.

Registration No.: 39,538

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

Attachment(s)

PATENT
0630-1061P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant:	Jae Kyung LEE et al.	Conf. No.:	9869
Appl. No.:	09/533,762	Group:	2174
Filed:	March 23, 2000	Examiner:	P. Ke
For:	METHOD FOR DISPLAYING MENU SCREEN OF VIDEO APPARATUS		

BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 30, 2005

Sir:

Appellants hereby appeal from the decision in the final Office Action, dated July 29, 2004, finally rejecting 1-5, 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo et al. ("Tsugo") in view of U.S. Patent 5,914,717 to Kleewein et al. ("Kleewein"); finally rejecting claims 6, 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo et al. ("Tsugo") in view of U.S. Patent 5,914,717 to Kleewein et al. ("Kleewein") and further in view of U.S. Patent 6,154,750 to Roberge et al. ("Roberge"); and finally rejecting claims 15-17 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo et al. ("Tsugo") in view of U.S. Patent 5,914,717 to Kleewein et al. ("Kleewein") and further in view of U.S. Patent 5,835,094 to Ermel et al. ("Ermel").

07/01/2005 SDENB081 00000040 09533762

01 FC:1253
02 FC:1402

1020.00 OP
500.00 OP

I. Real Party in Interest

The real party in interest for this Application is LG Electronics Inc. as evidenced by an Assignment recorded on March 23, 2000 at Reel 010644, Frame 0616.

II. Related Appeals and Interferences

To the best of Appellants' knowledge, there are no other prior or pending appeals of this Application, or patent interference proceedings, or judicial proceedings which may be related to, directly affect, or be directly affected by, or have a bearing on the Board's decision of this Appeal.

III. Status of Claims

In the Application on appeal, claims 1-6, 9-12 and 15-17 are pending. Claims 1-6, 9-12 and 15-17 are rejected and are on appeal. There are no allowed claims.

IV. Status of Amendments

The Amendment under 37 CFR 1.111, filed on April 30, 2004, has been entered.

V. Summary of the Claimed Subject Matter

Claims 1-4 are independent.

Claim 1 is directed to a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors. A menu screen having a menu level having a plurality of selectable menus, each of which are displayed in a first color is shown, for example, in Fig. 7 (see CH, VIDEO, AUDIO and TIME, for example). Fig. 7 also shows a menu screen wherein a selected first menu and a first lower menu generated by the selection of the first menu are depicted in a second color that is different from the first color (see CH, INPUT, AUTO PROG, MANUAL PROG, and FAVORITE CHANNE). Fig. 7 also displays a selected second menu and a second lower menu being displayed in a third color that is different from the first and second colors (See FAVORITE CH, CATV 03, and TV 05). Steps recited in the claims read on steps illustrated in Fig. 5.

Claims 2, 3 and 4 are broader than claim 1. For example, instead of reciting different display colors, claims 2, 3 and 4 recite different display manners.

Claim 2 differs from claim 3, for example, in that claim 2 recites that the selected first menu and first lower menu are displayed on the menu screen and claim 3 does not specify where or how the selected first menu and first lower menu are displayed.

Claim 4 differs from claims 2 and 3, for example, in that, in claim 4, the selected second menu and second layer menu level are displayed in a third manner that is different from the second manner (rather than from the first and second manners, as recited in claims 2 and 3, for example).

Claims 5, 9 and 10 recite the subject matter, respectively, of claims 2, 3 and 4 and further that the menus and menu levels are displayed using blocks and the selected first and second menus and the corresponding first and second lower menu levels are displayed in a different block from other menus and menu levels. This feature is shown, for example, in Fig. 7.

Claims 6, 11 and 12 recite the subject matter, respectively, of claims 2, 3 and 4 and further that the menus and levels are displayed using different shadings and the first and second menus and the corresponding first and second lower menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels. This feature is shown, for example, in Fig. 7.

Claims 15, 16 and 17 recite the subject matter, respectively, of claims 5, 9 and 10, wherein each of the blocks is displayed three-dimensionally to show its height. The three-dimensional feature is shown, for example, in Figs. 6 and 7.

VI. Grounds of Rejection

On pages 2 and 3 of the final Office Action, the Examiner rejects claims 1-5, 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo in view of U.S. Patent 5,914,717 to Kleewein.

On pages 3 and 4 of the final Office Action, the Examiner rejects claims 6, 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo in view of U.S. Patent 5,914,717 to Kleewein and further in view of U.S. Patent 6,154,750 to Roberge.

On pages 4 and 5 of the final Office Action, the Examiner rejects claims 15-17 under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo in view of U.S. Patent 5,914,717 to Kleewein and further in view of U.S. Patent 5,835,094 to Ermel.

VI. Argument

A. Claims 1-5, 9 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 04-246720 to Tsugo in view of U.S. Patent No. 5,914,717 to Kleewein. Appellants respectfully submit that this rejection is without merit for the following reasons.

During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In *re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In *re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If the PTO fails to meet this burden, then the Appellant is entitled to the patent.

A rejection must be based on objective evidence of record, not merely conclusory statements of the Examiner. See, *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

In rejecting claims under 35 U.S.C. §103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See, *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention.

Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal Inc. v. F-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986); *ACS Hospital*

Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. These showings must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not “evidence.” See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999). Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Also, the factual inquiries set forth in Graham v. John Deere, 383 U.S. 1, 148 USPQ 459 (1966) that should be applied to establish a background for determining obviousness should be made.

However, these inquiries are not found in the final Office Action with respect to claims 1, 5, 9 and 10.

Independent claim 1 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors.

Independent claim 2 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and first lower menu level being displayed on the menu screen in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

Independent claim 3 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

Independent claim 4 recites a combination of steps in a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu being displayed in a third manner that is different from the second manner.

Claim 5 depends from claim 2 and recites that the menus and menu levels are displayed using blocks, and the selected first and second menus and

the corresponding first and second lower menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels.

Tsugo is directed to a computer network management system involving numerous, complicated system functions and routines (paragraph [0002]). Tsugo explicitly states that it is directed to helping a user of the computer network management system not to lose sight of his or her own position in the hierarchical structure by being able to know the present hierarchical level based on a menu picture (paragraph [0003]). To accomplish its goal, Tsugo selects frame color corresponding to the level of the menu such that different hierarchical levels have different colors (paragraph [0007]).

Tsugo discloses hierarchical menu system stored in a menu file 2 and having an identification code for identifying a level I, II, or III to which an element menu belongs, as shown in Figs. 1 and 2. A color pattern of a frame representing each menu level is stored in a menu frame pattern file 3, where each level is of a different color. As shown, red is for level 1, green is for level 2, and yellow is for level 3. (paragraph [0007]).

In Tsugo, each menu level, from the main menu level to the lowest submenu level is disclosed as having a different color than any other menu level. To achieve this, a color pattern of a frame representing each menu level is stored in a menu frame pattern file 3, as disclosed in paragraph [0007].

Tsugo differs from the claimed invention in a number of ways.

First, with respect to claim 1, Tsugo does not disclose that, when the first lower (sub) menu is displayed, the first lower (sub) menu and the first menu from which the first lower (sub) menu was selected are displayed in a second color that is different from the first color of the menu screen having a plurality of menus (including the selected menu). Instead, in Tsugo, the main menu and the main selected menu are displayed in a first color, and a selected submenu is displayed in a second, different color. With respect to claims 2-5, 9 and 10, Tsugo does not disclose that, when the first lower (sub) menu is displayed, the first lower (sub) menu and the first menu from which the first lower (sub) menu was selected are displayed in a second manner that is different from the first manner of the menu screen having a plurality of menus (including the selected menu). Instead, in Tsugo, the main menu and the main selected menu are displayed in a first manner, and a selected submenu is displayed in a second, different manner.

Second, with respect to claim 1, Tsugo does not disclose that, when a second lower level (sub) menu is selected and generated (displayed), the selected second lower level (sub) menu and the selected second menu (which was selected from the first lower level (sub) menu) are both displayed in a third color that is different from the first and second colors. Instead, in Tsugo, when a second lower level (sub) menu is generated (displayed), it is in a different color than the color of the second menu from which it was selected. With

respect to claims 2-5, 9 and 10, Tsugo does not disclose that when a second lower level (sub) menu is selected and generated (displayed), the selected second lower level (sub) menu and the selected second menu (which was selected from the first lower level (sub) menu) are both displayed in a third manner that is different from the first and second manners. Instead, in Tsugo, when a second lower level (sub) menu is generated (displayed), it is in a different manner than the manner of the second menu from which it was selected.

The final Office Action does not appear to consider, and does not address, these points.

On page 3, the final Office Action states that Tsugo does not teach that the selected menu and the corresponding lower menu level are displayed in a second color that is different from the first color.

While that statement is true as far as it goes, it is not relevant to the claimed invention because it does not address the different colors of the claimed plurality of pairs of selected menus and submenus, which is what is recited in claim 1. This statement also is not relevant to claims 2-5, 9 and 10 because it does not address the different display manners of the claimed plurality of pairs of selected menus and submenus, which is what is recited in claims 2-5, 9 and 10.

The final Office Action also admits that “Tsugo doesn’t teach the selected menu and the corresponding lower menu level to be displayed in a second color that is different from the first color.”

The final Office Action then discusses Kleewein. Kleewein is directed to a system for displaying menus which includes a menu 48, menu item 50, a menu marker 52 and a fly out menu 54, as shown in FIG. 4. When a mouse cursor 36 points at the menu marker 52, the fly out menu 54 is displayed. Moreover, the menu item 50 and the fly out menu 54 are displayed using the same color (see Fig. 4 and its discussion in col. 5, lines 50-64, for example). Kleewein discloses use of a highlighting color, that depend on the background of the color menu and that the background color and the highlighting color may be selected at the discretion of the application developer (see col. 8, lines 24-27). Kleewein also discloses that the color of the text within a menu item may also be of different colors as selected by the application developer (see col. 8, lines 32-34).

In other words, Kleewein, the secondary reference used to provide the features missing from Tsugo, the primary reference, actually leaves color selection up to an application developer and presents no specific guidance on color selection other than to provide for a highlight color in the context of a background color of the color menu.

Appellants respectfully submit that this teaching in Kleewein of providing a highlight color with respect to a background color does not provide sufficient

basis to modify Tsugo to achieve the admittedly missing feature of the selected menu and the corresponding lower menu level to be displayed in a second color that is different from the first color.

A factual inquiry whether to modify a reference must be based on objective evidence of record, not merely conclusionary statements of the Examiner. See, In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). As neither applied reference even suggests (1) with respect to claim 1, that, when the first lower (sub) menu is displayed, the first lower (sub) menu and the first menu from which the first lower (sub) menu was selected are displayed in a second color that is different from the first color of the menu screen having a plurality of menus (including the selected menu); (2) with respect to claims 2-5, 9 and 10, Tsugo does not disclose that, when the first lower (sub) menu is displayed, the first lower (sub) menu and the first menu from which the first lower (sub) menu was selected are displayed in a second manner that is different from the first manner of the menu screen having a plurality of menus (including the selected menu); (3) with respect to claim 1, that, when a second lower level (sub) menu is selected and generated (displayed), the selected second lower level (sub) menu and the selected second menu (which was selected from the first lower level (sub) menu) are both displayed in a third color that is different from the first and second colors; and/or (4) with respect to claims 2-5, 9 and 10, that when a second lower level (sub) menu is selected and generated (displayed), the selected second lower

level (sub) menu and the selected second menu (which was selected from the first lower level (sub) menu) are both displayed in a third manner that is different from the first and second manners, the motivation for modifying Tsugo to include these positively recited features must be based on speculation and/or impermissible hindsight.

Furthermore, Appellants respectfully submit that neither Tsugo nor Kleewein discloses or suggests a method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors, as recited in claim 1.

Nor does Tsugo or Kleewein teach or suggest a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a

second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors,” as recited in claim 1.

Nor does Tsugo or Kleewein teach or suggest a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and first lower menu level being displayed on the menu screen in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners,” as recited in claim 2.

Nor does Tsugo or Kleewein teach or suggest a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners,” as recited in claim 3.

Moreover, Kleewein et al. does not teach or suggest a “menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu being displayed in a third manner that is different from the second manner,” as recited in claim 4.

Nor does Tsugo or Kleewein disclose that “the menus and menu levels are displayed using blocks, and the selected first and second menus and the corresponding first and second lower menu levels are displayed on a different block from other menus and menu levels,” as recited in claim 5. Contrary to what is asserted on page 3 of the Office Action, Tsugo does not disclose displaying the selected first and second menus and the corresponding first and second lower menu levels on a different block from other menus and menu levels. The alleged basis for this disclosure is Fig. 2, items I, II and III of Tsugo. However, items I, II and III display each submenu in a separate block, and do not disclose “displaying the selected first and second menus and the corresponding first and second lower menu levels on a different block from other menus and menu levels.”

Nor is there any direction in either of the applied references to provide incentive to one of ordinary skill in the art modify one in view of the other to render obvious the claimed invention, which recites features not disclosed in either Tsugo or Kleewien. In fact, these two applied references focus on different things. Tsugo focuses on a technique to let a window user easily recognize a particular hierarchical menu level, whereas Kleewien focuses on using animation to expand menus. These different aspects of these two references actually teach away from combining these two references, and the only reason to combine these references at all is based solely on Appellants' disclosure, which may not be properly used against them.

Moreover, as discussed above, even if these references were somehow combined, they would not render obvious the claimed invention.

Accordingly, this rejection of claims 1-5, 9 and 10 under 35 USC §103(a) is improper and should be reversed.

B. Claims 6, 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsugo et al. in view of Kleewien, and further in view of U.S. Patent No. 6,154,750 to Roberge. Appellants respectfully submit that this rejection is without merit for the following reasons.

Initially, Appellants respectfully submit that this rejection is improper because of the aforementioned deficiencies in the rejection of claims 2, 3 and 4,

from which claims 6, 11 and 12 depend, respectively. Moreover Roberge is not provided to remedy the aforementioned deficiencies.

In rejecting claims 6, 11 and 12, the Office Action relies on Roberge for a teaching of displaying menus and menu levels using different shadings, where a selected menu and corresponding menu level are displayed using a shading that is different from the other menus and menu levels. Appellants respectfully disagree with this interpretation. Roberge shows several views of a navigation structure on a computer screen in which selecting a menu causes the selected menu to become shaded and causes a corresponding lower menu level to be generated, as shown in Figs. 7-11, for example. However, the selected menu and corresponding lower menu level are not shaded in the same manner or distinguished from other menus and menu levels on the screen. In other words, Roberge does not teach or suggest the above-cited features of claims 6, 11 or 12. Therefore, even Roberge were properly combinable with Tsugo and Kleewein, Roberge does not cure the deficiencies of Tsugo and Kleewein with respect to claim 2, as incorporated in claim 6. Moreover, Roberge does not cure the deficiencies of Tsugo and Kleewein with respect to claims 3 and 4, as incorporated in claims 11 and 12, respectively.

Accordingly, this rejection of claims 6, 11 and 12 under 35 U.S.C. §103(a) is improper, and should be reversed.

C. Claims 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tsugo in view of Kleewein, and further in view of Ermel. Appellants respectfully submit that this rejection is without merit for the following reasons.

Initially, Appellants respectfully submit that this rejection is improper because of the aforementioned deficiencies in the rejection of claims 5, 9 and 10, from which claims 15, 16 and 17 depend, respectively. Moreover Ermel is not provided to remedy the aforementioned deficiencies.

In rejecting claims 15-17, the Office Action relies on Ermel et al. for a teaching of blocks that are displayed three-dimensionally so as to show their height.

Ermel is directed to displaying computer files, not menu items, and Ermel displays these files a different stacks, not different blocks. Moreover, the final Office Action fails to provide any clear and particular objective factual evidence provided that would motivate one of ordinary skill in the art to look to Ermel's file stacking display disclosure to Tsugo's or Kleewein's menus and menu elements and submenus. All that is presented regarding motivation is speculation that it would be obvious to modify Tsugo/Kleewein in view of Ermel to "give a user a complete view of all the available selections of the menu." Appellants respectfully disagree because Tsugo and/or Kleewein's menus already give a user a complete view of their menu items. The Office Action has not provide objective factual evidence to establish that one of ordinary skill in

the art would be motivated to use a three-dimensional feature when a two-dimensional feature accomplishes the same information capability. Furthermore, Ermel's menus (found in its tool tray 24) are not displayed in three dimensions. Only Ermel's file folders and subfolders are shown in three dimensions, and the Office Action fails to establish that it would be obvious to provide the recited three-dimensional features in Tsugo-Kleewein based on Ermel's file folder feature.

Moreover, if Ermel did not think of displaying its menus in three dimensions, then Ermel does not provide objective factual evidence to motivate a skilled worker to modify the base reference combination to change the base reference combination to display its menus in separate three-dimensional blocks.

For the aforementioned reasons, Appellants respectfully submit that this final rejection of claims 15-17 under 35 U.S.C. §103(a) is improper and should be reversed.

ENGLISH LANGUAGE TRANSLATION OF TSUGO (JP 04-246720)

Appellants enclose a copy of the English language translation of Tsugo, which contains 11 pages, including a cover sheet, and is relied on in the final Office Action.

CONCLUSION

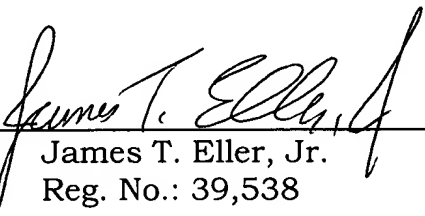
Appellants respectfully submit that claims 1-6, 9-12 and 15-17 are patentable over the applied art and that all of the rejections of record should be reversed.

Reconsideration and reversal of the Examiner's rejections are respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 
James T. Eller, Jr.
Reg. No.: 39,538

JTE/RJW:gf

P.O. Box 747
Falls Church, Virginia 22040-0747
Telephone: (703) 205-8000

Enclosure: English Language Translation of Tsugo (11 pages)

CLAIMS APPENDIX

1. (Previously Presented) A method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first color, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second color that is different from the first color, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third color that is different from the first and second colors.

2. (Previously Presented) A method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and first lower menu level being displayed on the menu screen in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

3. (Previously Presented) A method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu and the second lower menu level being displayed in a third manner that is different from the first and second manners.

4. (Previously Presented) A method for displaying a menu screen on a video display apparatus, the menu screen comprising a menu level having a plurality of menus, each of which are displayed in a first manner, wherein selecting a first menu from the plurality of menus causes a first lower menu level to be generated, the selected first menu and the first lower menu level being displayed in a second manner that is different from the first manner, and selecting a second menu from the first lower menu level causes a second lower menu level to be generated, the selected second menu is being displayed in a third manner that is different from the second manner.

5. (Previously Presented) The method according to claim 2, wherein the menus and menu levels are displayed using blocks, and the selected first

and second menus and the corresponding first and second lower menu levels are displayed on a different block from other menus and menu levels.

6. (Previously Presented) The method according to claim 2, wherein the menus and menu levels are displayed using different shadings, and the selected first and second menus and the corresponding first and second lower menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels.

7-8. (Canceled)

9. (Previously Presented) The method according to claim 3, wherein the menus and menu levels are displayed using blocks, and the selected first and second menus and the corresponding first and second lower menu levels are displayed on a different block from other menus and menu levels.

10. (Previously Presented) The method according to claim 4, menus and menu levels are displayed using blocks, and the selected first and second menus and the corresponding first and second lower menu levels are displayed on a different block from other menus and menu levels.

11. (Previously Presented) The method according to claim 3, wherein the menus and menu levels are displayed using different shadings, and the selected first and second menus and the corresponding first and second lower

menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels.

12. (Previously Presented) The method according to claim 4, wherein the menus and menu levels are displayed using different shadings, and the selected first and second menus and the corresponding first and second lower menu levels are displayed using a shading that is different from the shadings of the other menus and menu levels.

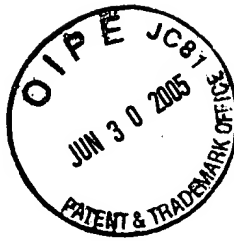
13-14. (Canceled)

15. (Previously Presented) The method according to claim 5, wherein each of the blocks is displayed three-dimensionally so as to show its height.

16. (Previously Presented) The method according to claim 9, wherein each of the blocks is displayed three-dimensionally so as to show its height.

17. (Previously Presented) The method according to claim 10, wherein each of the blocks is displayed three-dimensionally so as to show its height.

PTO 2002-4116

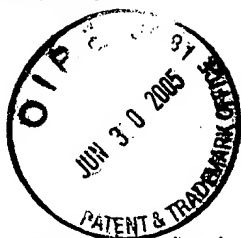


Japan Kokai
Japanese Patent Publication
Publication No.: 1-206424

FILE DISPLAY SYSTEM
[Fairu no hyoji no'shiki]

Teruko Tanabe

UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. August 2000



Translated by: Schreiber Translations, Inc.

Country : Japan

Document no. : 1-206424

Document type : Patent Publication

Language : Japanese

Inventor : Teruko Tanabe

Applicant : Mitsubishi Electronics Corporation

IPC : G 06 F 3/023; 3/14

Application date : February 15, 1988

Publication date : August 18, 1989

Foreign language title : Fairu no hyoji ho'shiki

English title : File display system

/1¹

Specification

1. Title of Invention

File display system

2. Scope of Patent Claims

A system where the file in graduated layer form is displayed on the screen of a computer, this file consists of several upper position files displaying the large classification and several lower position files displaying the small classification, these are related to the above upper position files.

This file display system is characterized in that several upper position files are displayed on the aforementioned screen. One upper position file is selected from several upper position files. Several of the lower position file that are related to one of the upper position file are displayed in a row with the aforementioned upper position file on the screen of the computer. One lower position file is selected among several of the lower position files. In addition, the lower position file of the fine classification is displayed on the aforementioned screen. The files from all the graduated layer files are displayed in a row on the aforementioned screen.

3. Detailed explanation of the invention

(Industrial field of use)

The invention pertains to a file display system in a computer. In particular, it pertains to the display system of a directory such as a menu in a graduated layer structure.

(Prior Art)

The program and data that are stored in the memory of the computer are stored in certain classification in a graduated layer structure. During a call out in a screen, the call out is from the

¹ Numbers in the margin indicate pagination in the foreign text.

large classification file to the fine classification file in the graduated layer form. The file shown below is explained as a menu.

Figure 4 shows the display state of the conventional graphic display. 1 is the graphic display screen. 2 is the graphic display of the large classification menu - portion (A1, A2,...An). Ai is the menu selected among the large classification menu - 2.

Figure 5 shows the menu - Ai selected from the large classification menu - portion 2, the page is switched on the same screen 1, the intermediate classification menu - portion Aii, Ai2... Ain are displayed. In addition, a desired menu is selected from the intermediate classification menu - portion Aii, Ai2, ... Ain. For example, the intermediate portion of Ai2 can be displayed. A menu is displayed by switching the pages in each graduated layer.

/2

The conventional menu display method is a display of only one screen, the large classification or the intermediate classification menu - display portion 2, Ai. Therefore, when the intermediate menu - Ai is selected from the large classification menu - 2 of screen 1 of figure 4, the intermediate classification menu - Ai of screen 1 in figure 5 is changed entirely.

That is, due to this menu selection, the menu - portion displayed on the screen is changed entirely for the whole menu.
(The problems resolved by the invention)

In the opening of the conventional menu, since the pages are switched for every menu graduated layers, the menu that is displayed on the screen at a particular time is only one graduated layer menu, the graduated menu that is before and after it are not displayed, there is the problem of the relationship for before and after that menu during operation.

The purpose of the invention is to resolve the above problems

and offer a file display system that is efficient in the menu - operation on the graphic display screen and the before and after relationship of the menu - graduated layer are clear in the menu opening.

(Means for resolving the problems)

In the invention, a system where the file in graduated layer form is displayed on the screen 1 of a computer, this file consists of several upper position files A1 - An displaying the large classification and several lower position files A11 - An1 displaying the small classification, these are related to the above upper position files A1 - An. This file display system is characterized in that several upper position files A1 - An are displayed on the aforementioned screen 1. One upper position file A1 is selected from several upper position files A1 - An. Several of the lower position files A11 - An1 that are related to one of the upper position file A1 are displayed in a row with the aforementioned upper position files A1 - An on the screen 1 of the computer. One lower position file A11 is selected among several of the lower position files A11 - An1. In addition, the lower position file A111 - A11n of the fine classification is displayed on the aforementioned screen 1. The file from all the graduated layer file is displayed in a row on the aforementioned screen 1.

(Action)

The file graduated layers are displayed simultaneously on the screen 1 according to a selection from the upper position files A1 - An to the lower position files A111 - A11n. The before and after relationship of the graduated layer files can be viewed together so the file selection and modification operation can be advanced smoothly.

(Implementation example)

One implementation of the invention is explained below by

referring to the diagrams.

Now, figure 2 shows the menu structure of the graduated layer file, this graphic display is shown in the computer. In figure 2, A1, A2... An is the large classification menu of the upper position file, A11, A12... A1n, A11...A1n are the intermediate menu of the lower position file. A111, A112... A11n are the small classification menu of the lower position file. That is, the intermediate classification menu - A11, A12, ...A1n are contained in one of the large classification menu - A1. Also, the small classification menu - A111, A112...A11n are contained in the intermediate menu - A11.

In figure 1, 1 is the screen for the graphic display.

5 is the display part of the large classification menu - A1, A2,... An of the graduated menu layer of figure 2.

6 is the display part of the intermediate classification menu - A11, A12,... A1n of the graduated menu layer of figure 2. In this case, the large classification menu - A1 of the display part 5 is selected.

7 is the display part of the small classification menu - A111, A112,... A11n of the graduated menu layer of figure 2. In this case, the intermediate menu A11 of the display part 6 is selected.

In this implementation example, the operation of the graphic display screen 1 of figure 1 is carried out. First, the large classification menu - A1, A2,... An of figure 2 is displayed in the display part 5. Continuously, the small classification menu - A111, A112...A11n and the intermediate menu - A11, A12... A1n are opened from the menu selection. Then, the display is at the display parts 6 and 7. That is, the menu screen is section off in each graduated menu layer, the whole selected graduated layer is displayed. Here, the large classification, the intermediate classification and the small classification becomes 3 graduated

layers. The setting of the display part pertaining to the menu - region can be modified according. Also, while the menu is displayed on the menu - screen, any menu can be moved.

/3

The action is explained next according to the flowchart in figure 3.

First, in step 301, the menu - A_1, A_2, \dots, A_n defined as the large classification menu are displayed in a certain location on screen 1 (lower right corner). In step 302, the menu - A_1 , the displayed large classification menu A_1, A_2, \dots, A_n are selected and inputted. In step 303, the selected menu - A_1 is displayed in a different color. The intermediate menu - $A_{11}, A_{12}, \dots, A_{1n}$ corresponding to the selected menu A_1 is at step 304, this is displayed in a certain location on the screen (the middle right side). In step 305, any of the menu can be selected and inputted, the displayed menu - $A_{11}, A_{12}, \dots, A_{1n}$. In step 306, the selected menu A_{11} is displayed in a different color. In step 307, the small classification menu - $A_{111}, A_{112}, \dots, A_{11n}$ corresponding to the selected menu - A_{11} in step 307 is displayed in a certain location on screen 1 (upper right side).

In step 308, the small classification menu A is selected. In step 309, the menu - A_{111} is displayed in a different color. In step 310, the menu corresponding to this is processed.

Also, when the process of the small classification menu - A_{111} is completed, the process can be returned to any of the steps 302, 305 and 308. The large classification, the intermediate classification and the small classification menu displayed in screen 1 can be selected freely again. Also, at step 304, when the intermediate classification menu - $A_{11}, A_{12}, \dots, A_{1n}$ are displayed on the screen, the large classification menu A_1, A_2, \dots, A_n can be selected by returning to step 302. The small classification menu -

A111, A112, ... A11n is displayed on screen 1 at step 307, the process can be returned to any of the steps 302 or 305. The selection of the large classification and the intermediate classification is possible.

Furthermore, in the above implementation example, for the menu on the graphic display, other menu can be opened. Also, the file structure is not limited to the graduated layer structure of 3 layers, the small, intermediate and large file directory but several graduated layers can be used.

(Effect of invention)

According to the invention as explained above, a system where the file in graduated layer form is displayed on the screen of a computer, this file consists of several upper position files displaying the large classification and several lower position files displaying the fine classification, these are related to the above upper position files. This file display system is characterized in that several upper position files are displayed on the aforementioned screen. One upper position file is selected from several upper position files. Several of the lower position file that are related to one of the upper position file are displayed in a row with the aforementioned upper position file on the screen of the computer. One lower position file is selected among several of the lower position files. In addition, the lower position file of the fine classification is displayed on the aforementioned screen. The file from all the graduated layer file is displayed in a row on the aforementioned screen. This makes a more efficient file operation.

4. Brief explanation of the diagrams

Figure 1 is the diagram showing the screen of the graphic display of the invention. Figure 2 shows the file structure of the graduated layers. Figure 3 is the flowchart explaining the action

of the invention. Figures 4 and 5 show the state of the screen for the conventional file display.

1 - screen, 5,6,7 - display part, A1-An - upper position file, A11 - An1 - lower position file, A111 - A11n - lower position file

Agent: Masuo Ogawa, Patent Attorney (& 2 other parties)

Figure 1

The file display of the invention

A1 - A1n: upper position file

A11 - An1: lower position file

A111 - A11n: lower position file

1 - screen

5,6,7 - display parts

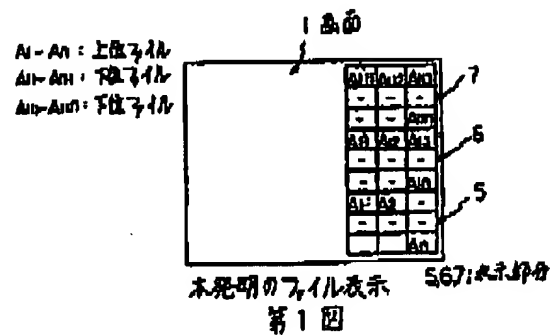


Figure 2

Large classification, A1, A2, ..., An

Intermediate classification, A11, A12, A1n, ..., An1

Small classification, A111, A112, A113, ..., A11n

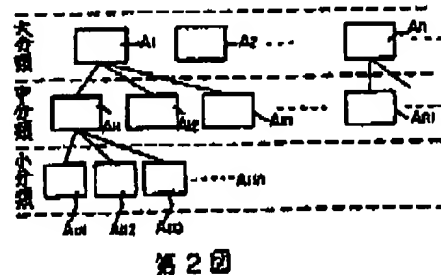


Figure 3

START

Step 301 - large classification
menu display

Step 302 - large classification
menu selection

Step 304 - intermediate menu -
display

Step 305 - intermediate menu -
selection

Step 306 - selection menu color
change display

Step 307 - small classification
menu display

Step 308 - small classification
menu selection

Step 309 - selection menu color
change display

Step 310 - menu - corresponding process

END

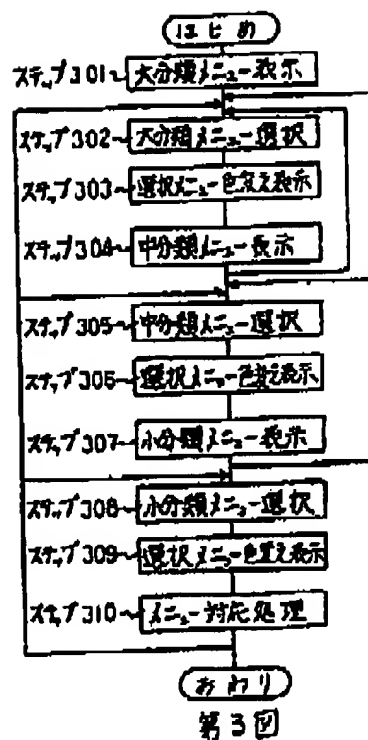
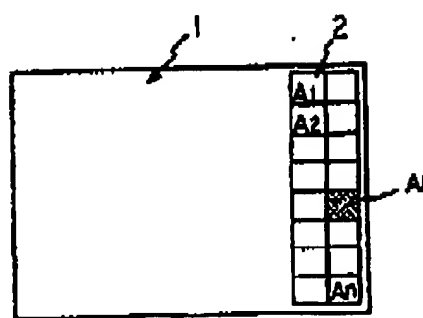
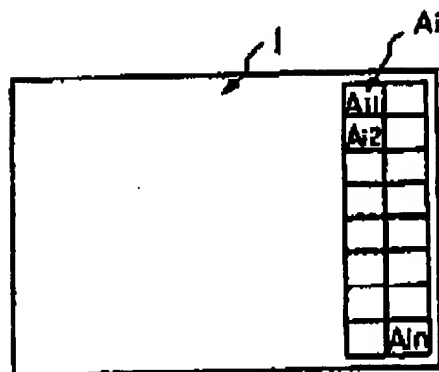


Figure 4



第4図

Figure 5



第 5 圖